

- d. separating said first layer of supernatant from said second layer of aggregate biological materials by inserting a separation barrier into said container to a level above said second layer and below a major portion of said supernatant that will prevent movement of said aggregate biological materials through said separation barrier into said major portion of said supernatant;
- e. withdrawing said major portion of said supernatant from above said separation barrier; and
- f. removing said plasmid DNA from said withdrawn portion of said supernatant.
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REMARKS

Claims 1-27 are pending in the present patent application. Claims 1-27 have been subject to a restriction requirement. The Office Action separated claims 1-27 into three groups: Group I includes claims 1-20, Group II includes claims 21-26, and Group III includes claim 27.

Applicant elects Group II with traverse.

Applicant contends that Group III (claim 27) is a claim which is a subset of Group II. MPEP Section 802.01 defines "independent" as "no disclosed relationship between the two or more subjects disclosed...". Section 802.01 further defines "distinct" as "two or more subjects as disclosed are related...but are capable of separate...use...as claimed". Claim 21 discloses a method for separating biological materials. Claim 27 is a method claim for separating DNA, which is a biological material. Therefore, claim 27 cannot be practiced without practicing the invention of Group II. Thus, applicant respectfully requests that the examiner include claim 27 in Group II.

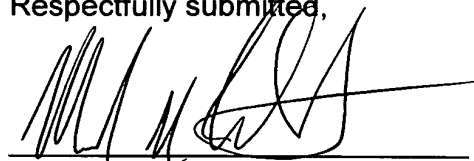
Claims 28-32 were added to better present claims 21-26 (Group II) in condition suitable for examination. Claim 33 was added to better present claim 27 (Group III) in condition suitable for examination. No new matter has been added as a result of these additions.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mark N. Fitzgerald', written over a horizontal line.

Signature of Agent

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